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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 RICK CHENG, Individually and on
12 Behalf of All Others Similarly
Situated.

Plaintiff,

v.

A-POWER ENERGY GENERATION
SYSTEMS LTD, JINXIANG LU,
MICHAEL ZHANG, ROBERT B.
LECKIE, DILIP LIMAYE, REMO
RICHLI, ZHENYU FAN, JIANMIN
WU, KIN KWONG MAK and
EDWARD MENG.

Defendants.

21 ALI ARAR, Individually and on
22 Behalf of All Others Similarly
Situated.

Plaintiff,

24

25 A-POWER ENERGY GENERATION
26 SYSTEMS LTD, JINXIANG LU,
27 KIN KWONG MAK, JOHN S. LIN,
EDWARD MENG, and MICHAEL
ZHANG.

Defendants.

Civil No. 2:11-cv-5509-GW-CW

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION OF A-POWER INVESTOR
GROUP FOR CONSOLIDATION OF
ALL RELATED CASES,
APPOINTMENT AS LEAD
PLAINTIFF, AND APPROVAL OF
LEAD COUNSEL**

DATE: September 26, 2011
TIME: 8:30 a.m.
JUDGE: Honorable George H. Wu
CTRM: 10

Civil No. 2:11-cv-05649-VBF-E

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1 **PRELIMINARY STATEMENT**

2 William J. Rooney (“Rooney”), Matthew J. Sprunger (“Sprunger”), Dr. Terry
 3 W. Shaw (“Shaw”), Paolo Bechini (“Bechini”), and Robert C. Treadwell
 4 (“Treadwell”) (collectively the “A-Power Investor Group”) respectfully submit this
 5 Memorandum of Points and Authorities in support of their motion, pursuant to
 6 Section 21D(a)(3) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15
 7 U.S.C. § 78u-4(a)(3), as amended by the Private Securities Litigation Reform Act
 8 of 1995 (the “PSLRA”) and Rule 42 of the Federal Rules of Civil Procedure, for an
 9 order: (i) consolidating all Related Actions pursuant to Rule 42(a) of the Federal
 10 Rules of Civil Procedure; (ii) appointing the A-Power Investor Group as Lead
 11 Plaintiff on behalf of all persons that purchased or otherwise acquired A-Power
 12 Energy Generation Systems Ltd. (“A-Power” or the “Company”) securities (the
 13 “Class”); (iii) approving A-Power Investor Group’s selection of Lieff, Cabraser,
 14 Heimann & Bernstein, LLP (the “Lieff Cabraser firm”) as Lead Counsel for the
 15 Class; and (iv) granting such other and further relief as the Court may deem just and
 16 proper.

17 **INTRODUCTION**

18 The above-captioned actions¹ (the “Related Actions”) are securities class
 19 action lawsuits that have been brought against A-Power and certain officers

20 ¹ They are entitled the following: *Cheng v. A-Power Energy Generation Systems Ltd.*, 11-cv-
 21 05509-GW-CW; and *Arar v. A-Power Energy Generation Systems Ltd.*, 11-cv-05649-VBF-E.
 22 The actions are on behalf of all persons who purchased or otherwise acquired A-Power between
 23 March 31, 2008 and June 27, 2011 (the “Class Period”).

24 Two actions have been filed in the District of Nevada. The actions are entitled: *Greenberg v. A-*
Power Energy Generation Systems Ltd., 11-cv-472-RCJ-RAM and *Gupta v. A-Power Energy*
Generation Systems Ltd., 11-cv-577-RCJ-VPC. These actions are on behalf of all persons who
 25 purchased or otherwise acquired A-Power between August 27, 2009 and June 27, 2011.

26 One action has been filed in the Southern District of New York. The action is entitled:
Weinberg v. A-Power Energy Generation Systems, Ltd., 11 Civ. 6006-JSR. The action is on
 27 behalf of all persons who purchased or otherwise acquired A-Power between March 31, 2008
 28 and June 27, 2011.

27 The A-Power Investor Group is also filing a motion in the D. Nev. actions for consolidation of
 28 those actions and appointment as lead plaintiff and filing a motion in the S.D.N.Y. action for
 29 appointment of lead plaintiff. Ultimately, the D. Nev., S.D.N.Y. and these actions should be
 30 consolidated in one forum.

1 alleging violations of federal securities laws. Each raise substantially similar
 2 allegations: that defendants violated Sections 10(b) and 20(a) of the Exchange Act
 3 by issuing false and misleading financial statements during the Class Period.

4 Pursuant to the PSLRA, the court appoints as lead plaintiff the movant who
 5 possesses the largest financial interest in the outcome of the Action and who
 6 satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure. 15
 7 U.S.C. § 78u-4(a)(3)(B)(iii)(I). The A-Power Investor Group, with approximate
 8 losses of \$876,257 in connection with its purchases of A-Power securities during
 9 the Class Period, is adequate and typical to serve as lead plaintiff. The A-Power
 10 Investor Group believes that it is the “most adequate plaintiff” as defined by the
 11 PSLRA and should be appointed Lead Plaintiff for these actions. The A-Power
 12 Investor Group has the largest financial interest in the relief sought in these actions
 13 by virtue of its substantial investment in A-Power securities during the Class Period
 14 and the losses it suffered as a result of Defendants’ misconduct. The A-Power
 15 Investor Group further satisfies the requirements of Rule 23 of the Federal Rules of
 16 Civil Procedure as an adequate representative with claims typical of the other Class
 17 members. Accordingly, the A-Power Investor Group respectfully submits that it
 18 should be appointed Lead Plaintiff.

19 **STATEMENT OF FACTS**

20 A-Power is a renewable energy company in China engaged in providing
 21 onsite distributed power generation systems and micro power grids for industrial
 22 companies. It is engaged in designing, constructing, installing and testing
 23 distributed power generation and micro power grids as stand-alone facilities and for
 24 various customers in the steel, chemical, ethanol, cement, and food industries. The
 25 Company designs projects, subcontracts its construction and installation to
 26 approved third-party subcontractors under its project oversight, and conducts
 27 testing on completed projects prior to turning them over to our customers. In
 28 addition to distributed power generation systems, the Company also designs,

1 installs and constructs related facilities for industrial companies.

2 Throughout the Class Period, Defendants made false and/or misleading
 3 statements, as well as failed to disclose material adverse facts about the Company's
 4 business, operations, and prospects. Specifically, Defendants made false and/or
 5 misleading statements and/or failed to disclose that: (1) the Company improperly
 6 accounted for its related-party transactions such that its financial statements were
 7 presented in violation of Generally Accepted Accounting Principles ("GAAP"); (2)
 8 the Company's revenues and income were misstated in violation of GAAP; (3) the
 9 Company's revenue and income reported in its filings with the SEC were overstated
 10 as the Company reported materially lower revenue and net income in its filings with
 11 the Chinese State Administration for Industry and Commerce ("SAIC"); (4) the
 12 Company lacked adequate internal and financial controls; and (5) as a result of the
 13 foregoing, the Company's financial results were materially false and misleading at
 14 all relevant times.

15 On June 17, 2011, A-Power announced that an independent director had
 16 resigned from the Company's Board of Directors as a result of concerns that his
 17 views on process and best practices were not necessarily shared throughout the
 18 Company." Later in the day, *Seeking Alpha* raised a number of red flags indicating
 19 fraud at the Company, including allegations that the 2009 financial statements filed
 20 by A-Power with the SAIC showed less than one-tenth of the revenue and cash
 21 balances than reported in statements filed with the SEC. On this news, A-Power
 22 stock fell \$0.51 per share or more than 22% in two consecutive trading sessions, to
 23 close at \$1.74 per share on June 20, 2011.

24 On June 27, 2011, A-Power announced that its independent auditor, MSCM
 25 LLP, had resigned effective June 26, 2011, and that its end-of-year 2010 Form 20-F
 26 filing would be delayed. Trading of the Company's shares was halted at \$2.67 per
 27 share on the same day by NASDAQ, until the Company could provide "additional
 28 information."

On June 28, 2011, the Company announced that the Chairs of its Board of Director's audit and compensation committees had resigned effective June 27, 2011.

On July 1, 2011, the Company announced that another independent director had resigned from the Company's Board.

ARGUMENT

I. THE RELATED ACTIONS SHOULD BE CONSOLIDATED

On July 2, 2011, the first of the two above-captioned actions against A-Power was filed in the Central District of California. These Related Actions allege the same factual events and name the same core defendants. Further, the complaints allege similar legal bases for their claims: Sections 10(b) and 20(a) of the Exchange Act. In sum, the Related Actions involve common questions of fact and law. Accordingly, pursuant to Fed. R. Civ. P. 42(a), the Related Actions may be consolidated for all purposes.

Consolidation of related cases is proper where, as here, the actions involve common questions of law and fact such that consolidation would prevent unnecessary cost or delay in adjudication:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all of the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delays.

Fed. R. Civ. P. 42(a). See also *Manual for Complex Litig.* (3d), 20.123, at 13-14 (1995).

The PSLRA contemplates consolidation where “more than one action on behalf of a class asserting substantially the same claim or claims arising under this chapter has been filed,” *see* 15 U.S.C. 78u-4(a)(3)(A)(ii), and did not displace the traditional legal standards for consolidation under Fed. R. Civ. P. 42(a). *Aronson v.*

1 *McKesson HBOC, Inc.*, 79 F. Supp. 2d 1146, 1150-51 (N.D. Cal. 1999). Under the
 2 traditional principles of consolidation, complaints may be consolidated regardless
 3 of whether the individual claims or causes of action are identical. As such, one
 4 court has recently noted, “neither Rule 42 nor the PSLRA demands that the actions
 5 be identical.” *Takeda v. Turbodyne Techs. Inc.*, 67 F.Supp.2d 1129, 1133 (C.D. Cal.
 6 1999). Indeed, it has long been routine in federal securities actions to consolidate
 7 such actions, and considered prejudicial to defendants not to do so. *See, e.g., Fields*
 8 *v. Wolfson*, 41 F.R.D. 329, 330 (S.D.N.Y. 1967).

9 As noted above, here, the allegations in the Related Actions are based on the
 10 same underlying facts and events, which occurred during the same time period, and
 11 charge the same core defendants with violations of the federal securities laws.

12 The consolidation of these actions will expedite pretrial proceedings, reduce
 13 duplication, avoid contacting of parties and witnesses for inquiries in multiple
 14 proceedings and minimize the expenditure of time and money by all persons
 15 concerned. Moreover, consolidation will reduce the confusion and delay that may
 16 result from prosecuting these related class actions separately. Further, the
 17 defendants have not stated any prejudice that they would suffer as a result of
 18 consolidation of these actions. Thus, the motion by the A-Power Investor Group to
 19 consolidate the Related Actions should be granted.

20 **II. A-POWER INVESTOR GROUP SHOULD BE APPOINTED LEAD**
 21 **PLAINTIFF FOR THE CLASS**

22 Section 21D(a)(3)(B) of the PSLRA sets forth procedures for the selection of
 23 Lead Plaintiffs in class actions brought under the Exchange Act. The PSLRA
 24 directs courts to consider any motion to serve as Lead Plaintiff filed by class
 25 members in response to a published notice of class action by the later of (i) 90 days
 26 after the date of publication, or (ii) as soon as practicable after the Court decides
 27 any pending motion to consolidate. 15 U.S.C. § 78u-4(a)(3)(B)(i) and (ii).

28 Further, under 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I), the Court is directed to

1 consider all motions by plaintiffs or purported class members to appoint lead
 2 plaintiffs filed in response to any such notice. Under this section, the Court “shall”
 3 appoint “the presumptively most adequate plaintiff” to serve as lead plaintiff and
 4 shall presume that plaintiff is the person or group of persons, that:

- 5 (aa) has either filed the complaint or made a motion in response to a
 notice . . .;
- 7 (bb) in the determination of the Court, has the largest financial
 interest in the relief sought by the class; and
- 9 (cc) otherwise satisfies the requirements of Rule 23 of the Federal
 Rules of Civil Procedure.

11 *See Erikson v. Cornerstone Propane Partners LP*, No. 03-2522(MHP), 2003 U.S.
 12 Dist. LEXIS 18009, at *8-*9 (N.D. Cal. Sept. 9, 2003); *Squyres v. Union Texas*
 13 *Petroleum Holdings, Inc.*, No. CV 98-6085-LGB, 1998 U.S. Dist. LEXIS 22945, at
 14 *5 (C.D. Cal. Nov. 2, 1998); *Osher v. Guess?, Inc.*, No. CV 01-00871 LGB, 2001
 15 U.S. Dist. LEXIS 6057, at *11 (C.D. Cal. Apr. 26, 2001).

16 As set forth below, the A-Power Investor Group satisfies all three of these
 17 criteria and thus is entitled to the presumption that it is the most adequate plaintiff
 18 of the Class and, therefore, should be appointed Lead Plaintiff for the Class.

19 **A. A-Power Investor Group Is Willing to Serve as a Class**
 20 **Representative**

21 On July 2, 2011, counsel in the first filed action entitled action *Cheng v. A-*
 22 *Power Energy Generation Systems Ltd.*, 11-cv-05509-GW-CW, caused a notice to
 23 be published pursuant to Section 21D(a)(3)(A)(i) of the PSLRA announcing that a
 24 securities class action had been filed against the defendants herein, and that
 25 investors of A-Power securities had until August 30, 2011², to file a motion to be
 26

27 ² The press release erroneously calculated the deadline to file a motion to be appointed as Lead
 28 Plaintiff. The correct deadline is August 31, 2011 as it is sixty days from the notice dated July
 2, 2011.

³ appointed as Lead Plaintiff. See Kruse Decl., Exhibit A.

The A-Power Investor Group has filed the instant motion pursuant to the Notice and has attached Certifications attesting that it is willing to serve as a Lead Plaintiff for the Class and is willing to provide testimony at depositions and trial, if necessary. *See* Kruse Decl., Exhibit B. Accordingly, the A-Power Investor Group satisfies the first requirement to serve as Lead Plaintiff for the Class

Contemporaneously with this filing, A-Power Investor Group members Messrs. Rooney, Sprunger, Shaw, Bechini and Treadwell have submitted a Joint Declaration, demonstrating that each of them is knowledgeable about this litigation; they are actively working together, and are committed to protecting the interests of the Class. *See* Joint Decl. of William J. Rooney, Dr. Terry W. Shaw, Paolo Bechini, Robert C. Treadwell, Jr., And Matthew J. Sprunger for Consolidation of Related Actions, Appointment as Lead Plaintiff And Approval of Lead Counsel (“Joint Decl.”), attached as Exhibit D to the Kruse Decl. They have “knowledge of the requirements and responsibilities of a lead plaintiff in a securities class action governed by the PSLRA.” Joint Decl. ¶ 2. They understand that it is their “responsibility to keep informed regarding the status and progress of this action, the strengths and weaknesses of the case, and any prospects for resolution of this matter.” *Id.*

Further, in consultation with their counsel, they have “agreed to proceed together.” *Id.* ¶ 6. In addition, they have expressed an intention to “meet telephonically at least quarterly amongst ourselves and Lead Counsel for case status updates.” *Id.* ¶ 3. Also, they will consult with each other, and with their “counsel in advance of major litigation events, such as important motions, settlement discussions, trial preparation and trial, and shall have the authority and responsibility to direct counsel with respect to each of these events after receiving

³ “Kruse Decl.” refers to the Declaration of Joy A. Kruse, submitted herewith in support of the motion of the A-Power Investor Group.

1 the benefit of Lead Counsel's advice." *Id.* Thus, members of the A-Power Investor
 2 Group have made a proper evidentiary showing of their ability to work cohesively
 3 and to serve as Lead Plaintiff.

4 **B. A-Power Investor Group Has the Largest Financial Interest in the**
Action

6 As noted above, the PSLRA establishes a rebuttable presumption that the
 7 most adequate plaintiff is the "person" or "group of persons" who "has the largest
 8 financial interest in the relief sought by the class," and who also satisfies the
 9 requirements of Fed. R. Civ. P. 23. 15 U.S.C. §78u-4(a)(3)(B)(iii)(I). This
 10 presumption can only be rebutted by proof that the presumptively most adequate
 11 plaintiff "will not fairly and adequately protect the interests of the class" or is
 12 "subject to unique defenses that render such plaintiff incapable of adequately
 13 representing the class." 15 U.S.C. §78u-4(a)(3)(B)(iii)(II). *In re Gemstar-TV Guide*
 14 *Int'l. Sec. Litig.*, 209 F.R.D. 447, 450 (C.D. Cal. 2002).

15 As of the time of the filing of this motion, the A-Power Investor Group
 16 believes that it has the largest financial interest of anyone in the relief sought by the
 17 Class.

Movant	Shares Purchased	Costs	Retained Shares	Approximate Loss
Rooney	48,917	\$839,658	26,717	\$411,212
Sprungler	75,100	\$666,623	25,330	\$151,896
Shaw	12,039	\$139,633	11,509	\$133,394
Bechini	15,000	\$114,115	15,000	\$114,115
Treadwell	10,000	\$65,640	10,000	\$65,640
Total	161,056	\$1,825,668	88,556	\$876,257

28 In total, the A-Power Investor Group suffered losses of approximately \$876,257.

1 See Kruse Decl., Exhibit C. Because the A-Power Investor Group possesses the
 2 largest financial interest in the outcome of this litigation, it may be presumed to be
 3 the “most adequate” plaintiff. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(bb). *See also In re*
 4 *McKesson HBOC, Inc. Sec. Litig.*, 97 F. Supp. 2d. 993 (N.D. Cal. 1999)
 5 (determining movants’ financial interest based on number of shares purchased
 6 during the class period, net shares purchased during the class period, net funds
 7 expended during the class period, and approximate loss); *In re Olsten Corp. Sec.*
 8 *Litig.*, 3 F. Supp. 2d 286, 296 (E.D.N.Y. 1998) (same); *Lax v. First Merchants*
 9 *Acceptance Corp.*, Case No. 97 C 2715, 1997 U.S. Dist. LEXIS 11866, at *5 (N.D.
 10 Ill. Aug. 11, 1997) (same).

11 **C. A-Power Investor Group Satisfies the Requirements of Rule 23 of**
 12 **the Federal Rules of Civil Procedure**

13 The PSLRA requires that the lead plaintiff must satisfy the requirements of
 14 Rule 23 of the Federal Rules of Civil Procedure. 15 U.S.C. § 78u-
 15 (a)(3)(B)(iii)(I)(cc). With respect to the claims of class representatives, Rule 23(a)
 16 requires that (1) the class is so numerous that joinder of all members is
 17 impracticable; (2) there are questions of law or fact common to the class; (3) such
 18 claims are typical of those of the class; and (4) the representatives will fairly and
 19 adequately protect the interests of the class. For purposes of a motion to appoint
 20 lead plaintiff pursuant to the PSLRA, however, all that is required is a “preliminary
 21 showing” that the lead plaintiff’s claims are typical and adequate. *Aronson*, 79 F.
 22 Supp. 2d at 1158 (citing *Wenderhold v. Cylink Corp.*, 188 F.R.D. 577, 587 (N.D.
 23 Cal. 1999)). *See Tanne v. Autobytel, Inc.*, 226 F.R.D. 659, 666 (C.D. Cal. 2005).

24 The typicality requirement of Fed. R. Civ. P. 23(a)(3) is satisfied where the
 25 named representative’s claims have the “same essential characteristics as the claims
 26 of the class at large.” *Danis v. USN Communs., Inc.*, 189 F.R.D. 391, 395 (N.D. Ill.
 27 1999). “A class is typical if it arises from the same event or course of conduct that
 28 gives rise to claims of other class members and all claims are based on the same

1 legal theory.” *Id.* Indeed, the “similarity of legal theory may control even where
 2 factual distinctions exist between the claims of the named representatives and the
 3 other class members.” *Id.* See *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508
 4 (9th Cir. 1992) (The typicality requirement serves to “assure that the interest of the
 5 named representative aligns with the interests of the class.”) (citation omitted).

6 The A-Power Investor Group’s claims are typical of those of the Class. It
 7 alleges, as do all class members, that defendants violated the Exchange Act by
 8 making what they knew or should have known were false or misleading statements
 9 of material facts concerning A-Power, or omitted to state material facts necessary to
 10 make the statements they did make not misleading. The A-Power Investor Group,
 11 as did all members of the Class, purchased A-Power securities during the Class
 12 Period at prices artificially inflated by defendants’ misrepresentations or omissions
 13 and was damaged upon the disclosure of those misrepresentations and/or omissions.
 14 These shared claims, which are based on the same legal theory and arise from the
 15 same events and course of conduct as the class claims, satisfy the typicality
 16 requirement of Rule 23(a)(3).

17 The adequacy of representation requirement of Rule 23(a)(4) is satisfied
 18 where it is established that a representative party “will fairly and adequately protect
 19 the interests of the class.” Accordingly,

20 The Ninth Circuit has held that representation is “adequate” when
 21 counsel for the class is qualified and competent, the representative’s
 22 interests are not antagonistic to the interests of absent class members,
 23 and it is unlikely that the action is collusive.

24 *Takeda*, 67 F. Supp. 2d at 1137 (citing *In re Northern Dist. Of Cal., Dalkon Shield*
 25 *IUD Prod. Liab. Litig.*, 693 F.2d 847, 855 (9th Cir. 1982)). Accord *Lerwill v.*
 26 *Inflight Motion Pictures, Inc.*, 582 F.2d 507, 512 (9th Cir. 1978). The class
 27 representative must also have “sufficient interest in the outcome of the case to
 28 ensure vigorous advocacy.” *Takeda*, 67 F. Supp. 2d at 1137 (citing *Riordan v.*

Smith Barney, 113 F.R.D. 60, 64 (N.D. Ill. 1986)).

The A-Power Investor Group is an adequate representative for the Class. There is no antagonism between its interests and those of the Class and its loss demonstrates that it has a sufficient interest in the outcome of this litigation. Moreover, it has retained counsel highly experienced in prosecuting securities class actions such as this action, and submits its choice to the Court for approval pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v).

D. A-Power Investor Group Fairly and Adequately Represents the Interests of the Class and Is Not Subject to Unique Defenses

The presumption in favor of appointing the A-Power Investor Group as Lead Plaintiff may be rebutted only upon proof “by a purported member of the plaintiffs’ class” that the presumptively most adequate plaintiff:

- (aa) will not fairly and adequately protect the interest of the class; or
 - (bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

15 U.S.C. § 78u-4(a)(3)(b)(iii)(I).

The A-Power Investor Group's ability and desire to fairly and adequately represent the Class have been discussed above. The A-Power Investor Group is not aware of any unique defenses Defendants could raise that would render it inadequate to represent the Class. Thus, the A-Power Investor Group should be appointed Lead Plaintiff for the Class.

III. LEAD PLAINTIFF'S SELECTION OF LEAD COUNSEL SHOULD BE APPROVED

The PSLRA vests authority in the lead plaintiff to select lead counsel, subject to approval by the Court. 15 U.S.C. § 78u-4(a)(3)(B)(v); *Osher*, 2001 U.S. Dist. LEXIS 6057, at *15. The Court should only interfere with lead plaintiff's selection when necessary "to protect the interests of the class." 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II)(aa).

1 Here, the A-Power Investor Group has selected the Lieff Cabraser firm to
2 serve as Lead Counsel for the Class. As detailed in its firm resume (*see* Kruse
3 Decl., Exhibit E), the Lieff Cabraser firm has extensive expertise and experience in
4 the field of securities litigation and have successfully prosecuted numerous
5 securities fraud class actions and obtained excellent recoveries on behalf of
6 defrauded investors. Thus, the Court may be confident that the Class will receive
7 the highest caliber of legal representation.

CONCLUSION

9 WHEREFORE, the A-Power Investor Group respectfully requests that the
10 Court issue an order: (1) consolidating the related actions; (2) appointing the A-
11 Power Investor Group as Lead Plaintiff for the Class; (3) approving the A-Power
12 Investor Group's selection of Lead Counsel for the Class; and (4) granting such
13 other and further relief as the Court may deem just and proper.

14 || Dated: August 31, 2011

Respectfully submitted,

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP

By: /s/ Joy A. Kruse
Joy A. Kruse

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